

**立法會**  
***Legislative Council***

Ref : CB2/BC/6/17

LC Paper No. CB(2)495/18-19  
(These minutes have been seen  
by the Administration)

**Bills Committee on Electoral Legislation**  
**(Miscellaneous Amendments) Bill 2018**

**Minutes of the second meeting**  
**held on Tuesday, 13 November 2018, at 2:30 pm**  
**in Conference Room 2 of the Legislative Council Complex**

**Members present** : Hon CHEUNG Kwok-kwan, JP (Chairman)  
Hon Starry LEE Wai-king, SBS, JP  
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP  
Hon WONG Kwok-kin, SBS, JP  
Hon Paul TSE Wai-chun, JP  
Hon WU Chi-wai, MH  
Hon Charles Peter MOK, JP  
Hon CHAN Han-pan, BBS, JP  
Hon Alice MAK Mei-kuen, BBS, JP  
Dr Hon Helena WONG Pik-wan  
Hon IP Kin-yuen  
Dr Hon CHIANG Lai-wan, SBS, JP  
Hon Alvin YEUNG  
Hon Holden CHOW Ho-ding  
Hon LUK Chung-hung, JP

**Members absent** : Hon WONG Ting-kwong, GBS, JP  
Hon Steven HO Chun-yin, BBS  
Hon CHU Hoi-dick  
Hon AU Nok-hin

**Public Officers attending** : Mr Andy CHAN Shui-fu, JP  
Under Secretary for Constitutional and Mainland Affairs  
  
Ms Cherie YEUNG Lok-sze  
Principal Assistant Secretary for Constitutional and  
Mainland Affairs

Mr Ryan CHIU Pit-ming  
Principal Assistant Secretary for Constitutional and  
Mainland Affairs

Mr MOK Mong-chan  
Assistant Secretary for Constitutional and Mainland Affairs

Ms Rachel YIU Mung-hin  
Senior Administrative Officer  
Home Affairs Department

Ms Carmen KAN Sau-fun  
Principal Liaison Officer  
Home Affairs Department

Mr WONG See-man  
Chief Electoral Officer  
Registration and Electoral Office

Mr Raymond WANG Man-chiu  
Principal Electoral Officer  
Registration and Electoral Office

Mr SHUM Nam-lung  
Deputy Chief Electoral Officer (Voter Registration)  
Registration and Electoral Office

Miss Emma WONG  
Senior Assistant Law Draftsman (Acting)  
Department of Justice

Mr Gary LI Ming-fung  
Government Counsel  
Department of Justice

**Attendance by : The Dynamic Island**  
**invitation**

Mr Felix WU Pat-lun  
Spokesperson

Mr LEUNG Kwok-hung

Democratic Alliance for the Betterment and Progress of  
Hong Kong

---

Mr LAI Jee-shing  
政制事務副發言人

**Clerk in attendance** : Ms Joanne MAK  
Chief Council Secretary (2) 3

**Staff in attendance** : Ms Wendy KAN  
Assistant Legal Adviser 6

Ms Jasmine TAM  
Senior Council Secretary (2) 3

Mrs Fonny TSANG  
Legislative Assistant (2) 3

---

Action

**I. Meeting with deputations and the Administration**

[File Ref.: CMAB C1/30/5/4, LC Paper Nos. CB(3)781/17-18, LS95/17-18, CB(2)71/18-19(01) and CB(2)98/18-19(01)]

The Bills Committee deliberated (index of proceedings attached at **Annex**).

2. The Bills Committee received views from three deputations/individual on the Electoral Legislation (Miscellaneous Amendments) Bill 2018 ("the Bill"). The major views expressed by the deputations/individual are summarized as follows:

- (a) the deputations generally supported the Administration's proposal of increasing the maximum penalties for making false statements in voter registration ("VR"). Concern was expressed, however, about how the Registration and Electoral Office ("REO") could ascertain whether a person had provided false information (e.g. residential address) in relation to his/her VR and why a person applying for registration as an elector for the Indigenous Inhabitant Representative ("IIR") election was not required to provide his/her principal residential address and submit relevant documentary proof. A deputation suggested that subject to stakeholders' views, consideration might be given to further increasing the proposed penalty level so as to ensure sufficient deterrent effect;

- (b) a deputation expressed support for the proposals of improving the objection mechanism and introducing a targeted exemption from criminal liability in respect of the activity of a third party on the Internet. The deputation further suggested that for objection cases where the electors' registered addresses were confirmed to be correct after investigation by REO, they needed not be passed to the Revising Officers for hearings; and
- (c) a deputation expressed support for the proposal of replacing the stamping requirement for certain ballot papers as set out in paragraph 20 of the relevant Legislative Council ("LegCo") Brief. The deputation further suggested that arrangements be made for electors concerned to indicate their preferences for candidates for certain functional constituencies ("FCs") by stamping instead of writing Arabic numerals on the ballot papers.

3. In response to the deputations' views, the Administration made the following points:

- (a) subsequent to the 2015 District Council Ordinary Election and the 2016 LegCo General Election, REO referred respectively several hundreds of suspicious cases of providing false information in VR to the relevant law enforcement agencies for follow-up;
- (b) as the eligibility for VR for the IIR election was determined by the applicant's linkage instead of residence, there was no requirement of submitting address proof when applying for such registration; and
- (c) electors for certain FCs with specific electorate base were required to indicate their preferences for candidates by writing Arabic numerals in the circles opposite the names of the candidates of their choice on the ballot papers. The existing arrangements were clear and should not pose any problem to the electors concerned.

#### Clause-by-clause examination of the Bill

4. The Bills Committee commenced clause-by-clause examination of the Chinese text of the Bill. The Bills Committee examined up to clause 30 of the Bill before the end of the meeting.

#### Follow-up action required of the Administration

Admin

5. The Administration was requested to provide a paper to explain, with examples, what would be considered as "good cause" under the proposed

section 6(1) and "sufficient information" under the proposed new section 2B of the Registration of Electors (Appeals) Regulation (Cap. 542B).

Date of next meeting

6. Members agreed that the next meeting would be held on Monday, 3 December 2018, at 4:30 pm.

**II. Any other business**

7. There being no other business, the meeting ended at 4:30 pm.

Council Business Division 2  
Legislative Council Secretariat  
19 December 2018

**Proceedings of the second meeting of the  
Bills Committee on Electoral Legislation  
(Miscellaneous Amendments) Bill 2018  
on Tuesday, 13 November 2018, at 2:30 pm  
in Conference Room 2 of the Legislative Council Complex**

<b>Time Marker</b>	<b>Speaker(s)</b>	<b>Subject(s)/Discussion</b>	<b>Action required</b>
001107 - 001414	Chairman	Opening remarks	
001415 - 001720	Chairman Dynamic Island	Presentation of views	
001721 - 002030	Chairman Mr LEUNG Kwok-hung	Presentation of views	
002031 - 002319	Chairman Democratic Alliance for the Betterment and Progress of Hong Kong	Presentation of views	
002320 - 002527	Administration	The Administration's response to deputations' views.	
002528 - 003148	Chairman Dr Helena WONG Administration	<p>The Administration's reply to Dynamic Island's earlier enquiry about the role of the Chief Returning Officer ("CRO") in public elections and the reasons for not publishing the appointment of CRO in the Gazette.</p> <p>Dr Helena WONG's concern and the Administration's response regarding the power of the Returning Officer in determining whether a candidate's nomination was valid or not. The Chairman reminded Dr WONG that the matter fell outside the scope of the Electoral Legislation (Miscellaneous Amendments) Bill 2018 ("the Bill").</p>	
003149 - 003616	Chairman Administration	<p>Commencement of clause-by-clause examination of the Bill</p> <p><b>Part 1 – Preliminary</b></p> <p><u>Examination of clauses 1 and 2</u></p> <p>Members noted that clause 1(2) and (3) provided that the Bill, if passed, would come into operation on the day on which it was published in the Gazette ("the gazettal date"), except for the provisions specified in clause 1(4) ("the specified provisions"), which would come into operation on 1 February 2019 or on the gazettal date if such date was later than 1 February 2019. The Administration explained that the proposed commencement arrangement in respect of the specified provisions, which related to Rural Representative elections, would provide certainty for the</p>	

Time Marker	Speaker(s)	Subject(s)/Discussion	Action required
		electoral arrangements for the 2019 Rural Ordinary Election to be held in January 2019.	
003617 - 004108	Chairman Administration	<b>Part 2 – Increasing Maximum Penalties for Certain Offences Relating to Registration of Electors or Voters</b>  <u>Examination of clauses 3 to 6</u>	
004109 - 005427	Chairman Administration	<b>Part 3 – Streaming Mechanism for Appeals, Claims and Objections Relating to Registration of Electors or Voters</b>  <u>Examination of clauses 7 to 12</u>  <i>Clause 9</i>  The Chairman enquired about the reasons for proposing to advance the statutory deadline for the Electoral Registration Officer ("ERO") to forward notices of claim or objection received to the Revising Officer ("RevO"). The Administration explained that as it was proposed that incontrovertible claim and objection cases could be determined by RevO without hearings on the basis of written submissions only, the proposed advancement of the aforesaid deadline would allow more time for RevO to process claims or objections either by hearings or by written submissions. The Administration stressed that the proposal would not affect the statutory deadline for members of the public to submit notices of claim or objection to ERO.  <i>Clause 10</i>  In reply to the Chairman's enquiry, the Administration advised that it was studying the issue raised by the Assistant Legal Adviser ("ALA") in paragraph 11 of her letter dated 16 October 2018 (LC Paper No. CB(2)98/18-19(01)) ("ALA's letter") and would consider whether amendments to the relevant section of the Electoral Affairs Commission (Registration) (Electors for Legislative Council Functional Constituencies) (Voters for Election Committee Subsectors) (Members of Election Committee) Regulation (Cap. 541B) would be necessary.	
005428 - 010259	Chairman Mr CHAN Han-pan Dr Priscilla LEUNG Administration	<u>Examination of clause 13</u>  In reply to Mr CHAN Han-pan's enquiry, the Administration explained the proposal that an option would be provided for RevO to dismiss the claim or objection case direct if the appellant or his/her representative did not attend the hearing, regardless of whether the appellant had made representations in writing regarding the case.	
010300 - 011742	Chairman Dr Priscilla LEUNG Administration	<u>Examination of clauses 14 to 16</u>  <i>Clause 15</i>	

Time Marker	Speaker(s)	Subject(s)/Discussion	Action required
		<p>In relation to the proposed section 3(4) of the Registration of Electors (Appeal) Regulation (Cap. 542B), Dr Priscilla LEUNG enquired about the reasons for setting 7 July (for a non-District Council ("DC") election year) and 7 September (for a DC election year) as the deadline for informing the appellant (and the person in respect of whom the objection was made in an objection case) of RevO's ruling in respect of the claim or objection determined by written submissions in lieu of a hearing. Dr LEUNG suggested that instead of setting the deadline by reference to a specified date, the Administration might specify the number of working days within which RevO must inform the appellant (and the person in respect of whom the objection was made in an objection case) of his/her ruling after receiving the notice of claim or objection from ERO.</p> <p>The Administration explained that the aforesaid proposed deadline, which was set in consultation with the Judiciary, had taken into account the proposed revised statutory deadline for forwarding notices of claim or objection to RevO (i.e. 29 June (for a non-DC election year) or 29 August (for a DC election year)) and the proposed statutory deadline for reviewing rulings made on claims or objections handled by written submissions (i.e. 11 July (for a non-DC election year) or 11 September (for a DC election year)). In the Administration's view, the aforesaid proposed deadline was clear and would allow a reasonable period of time for RevO to make a ruling and for the appellant (as well as the person in respect of whom the objection was made in an objection case) to request a review of RevO's ruling if he/she so wished to.</p> <p>The Administration's response to the issue raised in paragraph 3 of ALA's letter regarding the reasons for not imposing under the Bill a requirement on RevO to give written notice of the result of a review of a ruling made under the proposed section 6(1)(a) or (b) of Cap. 542B to the appellant or the person in respect of whom the objection was made.</p>	
011743 - 013542	Chairman Dr CHIANG Lai-wan Administration	<p><u>Examination of clause 17</u></p> <p>In response to the request of Dr CHIANG Lai-wan, the Administration undertook to provide a written reply to explain, with examples, what would be considered as "good cause" under the proposed section 6(1) and "sufficient information" under the proposed new section 2B of Cap. 542B.</p>	<b>Admin (para. 5 of minutes)</b>
013543 - 015426	Chairman Administration	<p><u>Examination of clauses 18 to 29</u></p> <p><i>Clause 19</i></p> <p>Referring to the issue raised in paragraph 14 of ALA's letter, the Administration advised that it would consider proposing amendments to the relevant clauses of the Bill to correct the references to the relevant provisions.</p>	



Time Marker	Speaker(s)	Subject(s)/Discussion	Action required
		The Administration's response to the enquiry raised in paragraph 2 of ALA's letter regarding the scope of application of the proposals under Part 3 of the Bill to allow RevO to determine a case without a hearing on the basis of written submissions only.	
015427 - 020412	Chairman Dr CHIANG Lai-wan Hon Paul TSE Administration	<p><b>Part 4 – Amendment to Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) Relating to Persons other than Candidates and Election Expense Agents Incurring Election Expenses for Publishing Election Advertisements on Internet</b></p> <p><u>Examination of clause 30</u></p> <p>In response to Dr CHIANG Lai-wan's enquiry, the Administration advised that the current proposal sought to introduce a targeted exemption from criminal liability in respect of a third party (i.e. an individual or a body that was neither the relevant candidate whose election was being promoted or prejudiced nor his/her election expense agent) who incurred merely electricity and/or Internet access charges in publishing election advertisements ("EAs") on the Internet. The proposal would not affect the obligation of candidates or their election expense agents under the existing electoral legislation.</p> <p>Mr Paul TSE expressed no strong view on the aforementioned proposal. However, he enquired whether the proposed exemption would also be applicable to a well-organized deployment of a large amount of Internet resources to promote or prejudice the election of candidate(s). The Administration explained that the current proposal sought to address concerns of breach of electoral laws that might arise from expression of views on the Internet by a third party who incurred merely electricity and/or Internet charges, without exempting those who incurred other election expenses in publishing EAs on the Internet.</p>	
020413 - 020423	Chairman	<p>Date of next meeting</p> <p>Closing remarks</p>	